

§ 36.4340

38 CFR Ch. I (7–1–03 Edition)

§ 36.4340 Restriction on designated fee appraisers.

(a) A designated fee appraiser shall not make an appraisal, excepting of alterations, improvements, or repairs to real property entailing a cost of not more than \$3,500, if such appraiser is an officer, director, trustee, employer, or employee of the lender, contractor, or vendor.

(b) An appraisal made by a designated fee appraiser shall be subject to review and adjustment by the Secretary. The amount determined to be proper upon any such review or adjustment shall constitute the “reasonable value” for the purpose of determining the eligibility of the related loan.

[15 FR 4398, July 12, 1950, as amended at 24 FR 2655, Apr. 7, 1959; 43 FR 51016, Nov. 2, 1978]

§ 36.4342 Delegation of authority.

(a) Except as hereinafter provided, each employee of the Department of Veterans Affairs heretofore or hereafter appointed to, or lawfully filling, any position designated in paragraph (b) of this section is hereby delegated authority, within the limitations and conditions prescribed by law, to exercise the powers and functions of the Secretary with respect to the guaranty or insurance of loans and the rights and liabilities arising therefrom, including but not limited to the adjudication and allowance, disallowance, and compromise of claims; the collection or compromise of amounts due, in money or other property; the extension, rearrangement, or acquisition of loans; the management and disposition of secured and unsecured notes and other property; and those functions expressly or impliedly embraced within paragraphs (2) to (6), inclusive, of 38 U.S.C. 3720(a). Incidental to the exercise and performance of the powers and functions hereby delegated, each such employee is authorized to execute and deliver (with or without acknowledgment) for, and on behalf of, the Secretary, evidence of guaranty or of insurance credits and such certificates, forms, conveyances, and other instruments as may be appropriate in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental, or

other disposition of real or personal property, or, of any right, title, or interest therein, including, but not limited to, contracts of sale, installment contracts, deeds, leases, bills of sale, assignments, and releases; and to approve disbursements to be made for any purpose authorized by 38 U.S.C. chapter 37.

(b) Designated positions:

Under Secretary for Benefits
Director, Loan Guaranty Service
Director, Medical and Regional Office Center
Director, VA Regional Office and Insurance Center
Director, Regional Office
Loan Guaranty Officer
Assistant Loan Guaranty Officer

The authority hereby delegated to employees of the positions designated in this paragraph may, with the approval of the Under Secretary for Benefits, be redelegated.

(c) Nothing in this section shall be construed (1) to authorize any such employee to exercise the authority vested in the Secretary under 38 U.S.C. 501 or 3703(a)(2) or to sue, or enter appearance for and on behalf of the Secretary, or confess judgment against the Secretary in any court without the Secretary's prior authorization; or (2) to include the authority to exercise those powers delegated to the Under Secretary for Benefits, or the Director, Loan Guaranty Service, under §§ 36.4320(j), 36.4335 or 36.4343:

Provided, That, anything in the regulations concerning guaranty or insurance of loans to veterans to the contrary notwithstanding, any evidence of guaranty or insurance issued on or after July 1, 1948, by any of the employees designated in paragraph (b) of this section or by any employee designated an authorized agent or a loan guaranty agent shall be deemed to have been issued by the Secretary, subject to the defenses reserved in 38 U.S.C. 3721.

(d) Each Regional Office, regional office and insurance center, and Medical and Regional Office Center shall maintain and keep current a cumulative list of all employees of that Office or Center who, since May 1, 1980, have occupied the positions of Director, Loan Guaranty Officer, and Assistant Loan Guaranty Officer. This list will include each employee's name, title, date the

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employee assumed the position, and the termination date, if applicable, of the employee's tenure in such position. The list shall be available for public inspection and copying at the Regional Office, or Center, during normal business hours.

(e)(1) Authority is hereby delegated to the officers, designated in paragraph (e)(2) of this section, of the entity performing loan servicing functions under a contract with the Secretary to execute on behalf of the Secretary all documents necessary for the servicing and termination of a loan made or acquired by the Secretary pursuant to 38 U.S.C. chapter 37 (other than under subchapter vi of that chapter). Documents executed under this paragraph include but are not limited to: loan modification agreements, notices of default and other documents necessary for loan foreclosure or termination, notices of appointment or substitution of trustees under mortgages or deeds of trust, releases or satisfactions of mortgages or deeds of trust, acceptance of deeds-in-lieu of foreclosure, loan assumption agreements, loan assignments, deeds tendered upon satisfaction or conversion of an installment land sales contract, and documents related to filing, pursuing and settling claims with insurance companies relating to hazard coverage on properties securing loans being serviced.

(2) The designated officers are: Vice President, Assistant Vice President, and Assistant Secretary.

(3) The Director, Loan Guaranty Service, Washington, DC, shall maintain a log listing all persons authorized to execute documents pursuant to paragraph (e) of this section and the dates such persons held such authority, together with certified copies of resolutions of the board of directors of the entity authorizing such individuals to perform the functions specified in paragraph (e)(1) of this section. These records shall be available for public inspection and copying at the Office of

the Director of VA Loan Guaranty Service, Washington, DC 20420.

(Authority: 38 U.S.C. 501, 3720(a)(5))

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[23 FR 2217, Apr. 4, 1958, and 24 FR 2655, Apr. 7, 1959, as amended at 40 FR 34593, Aug. 18, 1975; 43 FR 60460, Dec. 28, 1978; 45 FR 21243, Apr. 1, 1980; 46 FR 43673, Aug. 31, 1981; 54 FR 34988, Aug. 23, 1989; 61 FR 28058, June 4, 1996; 66 FR 32231, June 14, 2001]

§ 36.4343 Cooperative loans.

(a) Any loan, which is (1) related to an enterprise in which more than 10 individuals will participate; or (2) to be made for the purchase or construction of residential units in any housing development, cooperative or otherwise, the title to which development or to the individual units therein is not to be held directly by the veteran-participants, or which contemplates the ownership or maintenance of more than three units or of their major appurtenances in common, to be eligible for guaranty or insurance shall require prior approval of the Under Secretary for Benefits, or the Director, Loan Guaranty Service, who may issue such approval upon such conditions and limitations deemed appropriate, not inconsistent with the provisions of 38 U.S.C. chapter 37 and the regulations concerning guaranty or insurance of loans to veterans.

(b) The issuance of such approval with respect to a residential development under paragraph (a)(2) of this section also shall be subject to such conditions and stipulation as in the judgment of the approving officer are possible and proper to (1) afford reasonable and feasible protection to the rights of the Government as guarantor or insurer, and as subrogee, and to each veteran-participant against loss of his or her respective equity consequent upon the failure of other participants to discharge their obligations; (2) provide for a reasonable and workable plan for the operation and management of the project; (3) limit the personal liability of each veteran-participant to those